



PREVENTION OF LAND INVASION POLICY 2015/16

Summary

The Ngqushwa Local Municipality recognises the right of its residents to life and to be treated with dignity.

Council acknowledge its residents right to housing as contained in Clause 25 of the Bill of Rights of the Constitution of the Republic of South Africa, and further admit that such right may be limited as provided for in Clause 36 of the same Bill of Rights.

Council will in its efforts and endeavours (together with Department of Human Settlement) of housing and settling its residents in need of housing and accommodation take into cognisance the provision and the spirit of all legislations relevant to housing and land settlements control.

Council realizes that, there exist a great need for accommodation amongst its low income group or less fortunate residents, and that land for township development is scarce within its area of jurisdiction.

Council will do all in its power to ensure orderly development of places of residents for all its residents.

This policy underpinned and based on the provision of the Prevention of illegal Eviction form and Unlawful occupation of Land Act (Act 19 of 1998) and Extension of Tenure Security Act (Act 62 of 1997).

Publication Date	
Review Date	September 2021
Related Legislation/Applicable Section of Legislation	<ul style="list-style-type: none"> • South African Constitution, 1996 (as amended) • Municipal Systems Act, 2000 (Act No. 32 of 2000) • Municipal Structures Act, 1998 (Act No. 117 of 1998) • Spatial Planning & Land Use Management Act, 2013 (Act No. 16 of 2013) • Prevention of Illegal Eviction From and Unlawful Occupation of Land Act, 1998 (Act No. 19 of 1998) • The Extension of Security of Tenure Act, 1997 (Act No. 62 of 1997) • The Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996) • The Trespass Act, 1959 (Act No. 6 of 1959)

Related Policies, Procedures, Guidelines, Standards, Frameworks	Collective agreement
Replaces/ Repeals (whichever is relevant, if any)	None
Policy Officer (Name/Position)	Mr. O. Mazele
Policy Officer (Phone)	040-6733 095
Policy Sponsor (Name/Position)	None
Department Responsible	Community Services
Unit responsible	Spatial Planning & Land Use
Applies to	Ngqushwa Municipality Jurisdiction
Key Words	Prevention of Land Invasion Policy
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Version	1

REVISION RECORD

Date	Version	Revision Description

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1. TITLE

Prevention of Land Invasion Policy

2. DEFINITIONS AND ABBREVIATIONS

In this Policy, unless the context indicates otherwise;

Term	Meaning
Building or Structure	means any hut, shack, tent, or similar structure or any other form of temporary or permanent dwelling or shelter.
Consent	means the express or tacit consent, whether in writing or otherwise, of the owner or person in charge to the occupation by the occupier of the land in question.
Court	means any division of the High Court or the magistrate's court in whose area of jurisdiction the land in question is situated.
Evict	means to deprive a person of occupation of a building or structure, or the land on which such building or structure is erected, against his/ her will and eviction has a corresponding meaning.
Invasion	means the illegal movement of a person or persons into ones property, land etc.
Land	Includes a portion of land.
Municipality	Means a municipality as contemplated in section 2 of the Local Government Municipal Systems Act, 32 of 2000 and the Constitution of The Republic of South Africa, 1996 (as amended).
Municipal entity	Means a municipality entity as contemplated in section 1 of the Local Government Municipal Systems Act, 32 of 2000 and the Constitution of The Republic of South Africa.
Municipal Council	Means Ngqushwa Municipal Council as constituted in terms of the section 12 of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998) and referred to in section 157 (1) of the Constitution, 1996.
Municipal Manager	Means a person defined and appointed in terms of terms of the Municipal Systems Act 32 of 2000 and Municipal Structures Act 117 of 1998.

3. PURPOSE OF THE LAND INVASION POLICY

The purpose of the Land Invasion Policy is to help in the combat land Invasion which tends to put the Municipality under pressure in terms of service delivery. Also if left unchecked, has a tendency of making the urban area haphazard, as the urban area becomes shapeless.

4. VISION

The Land invasion Policy will ensure that there will be limited and of no Invasion of land and also promote synchronised planning.

5. OBJECTIVES

To assist municipality to control and manage the land available in terms of open spaces.

6. BACKGROUND

- a) Council acknowledge that as a local government, land owner and the authoritative institution regulating the manner in which all areas under its jurisdiction have to develop according to its Integrated Development Plan, Spatial Development Framework and Land Development Objectives.
- b) Council has legal and moral obligation to provide land for the development of residential areas to accommodate its residents in an orderly and proper manner as far as possible and within its financial constraints.
- c) Council accepts that the immigration from rural areas to urban areas for whatever reason is a phenomenon of urbanisation and such must occur in a managed manner and must be in line with its pre-determined settlement strategy and any deviation there from is unlawful.

7. STATUS QUO

- a) Council accepts that the various informal settlements within its area of jurisdiction which have established prior to its existence and that efforts have been made to provide rudimentary services to their respective residents.
- b) The provision of such services and the numbering of existing shacks and buildings built in bricks and mortar does not in itself mean that the residents thereof are reside there permanently.
- c) Such numbering does not itself in any manner whatsoever mean that the yard fenced in or not which a shack or building has been erected and so numbered is a stand.

- g) For housing opportunities Council will endeavour to prioritise the needs of residents of existing informal settlement and those leaving in the back yards at established townships. A housing opportunity include relocation to a stand In Formal Township.
- h) Persons accommodated In a reception area have a housing opportunity while living or residing in that area. If such a person move out of the area, unless same is buying a stand elsewhere, ceases to be on the list of housing opportunity.
- i) Notice boards are to be put up at entrance of effected township informing prospective migrant into the area that they must consult the local municipal office to obtain a registration permit and site allocation before relocating.
- j) Where livestock is involved, permission to bring them along and to be put In grazing farms must be obtained from the designated health officer who when deemed necessary, may require medical examination of such livestock by a registered veterinary surgeon at the cost of the owner. If such an office is satisfied that such livestock has no diseases that may be infectious to others livestock may direct that the livestock be kept in an area to be indicated by the health officer for such a duration as s/he may prescribe subject to the availability of such stock-yard or land.

8.3. LEASING AND OCCUPATION

- a) No person is allowed to have a shack or structure that he/she does not use it or to lease it to someone else anywhere in the existing informal settlements or reception area.
- b) No person is allowed to have a shack or structure unoccupied by him/herself for more than three months, without written permission of the manager responsible for housing matters.
- c) Where it is discovered that certain instances are contrary to paragraphs above, Council shall be treated as stipulated in accordance with the provisions of this policy and Legislations.
- d) The principle of one stand per family (household) shall apply at all times

8.4. PRIVATE PROPERTY OCCUPATION (INCLUDE FARM LAND)

- a) Where a private land owner allow or permit the occupation of land for habitation purposes by a group of people who are in his/her employ or not, Council shall insist that its Building Health and Security Regulations be adhered to by the landowner.
- b) In an instance where a private landowner does not act against illegal occupier of his/her land, Council may act in terms of Section 6 of Act 19 of 1998 to obtain an order for eviction at the cost of the said landowner.

8.5. CONTRAVENTIONS AND NON- COMPLIANCE

(a) Contravention Notices have to be issued by the Municipal Manager or delegated official. Authority for prosecution or Legal Action rests with the Administration Arm of the Municipality, unless Delegated Authority is given.

(b) Where Notice has been issued but not obeyed, this is Non Compliance and is a Contravention. Authority for prosecution or Legal Action rests with the Administration Arm of the Municipality, unless Delegalized Authority is given.

ROLES AND RESPONSIBILITIES

Role	Authority
<ul style="list-style-type: none"> • Create, evaluate, review and adopt the Prevention of Land Invasion Policy 	Council
<ul style="list-style-type: none"> • Implement and enforce this policy • Establish and control the administration necessary to fulfil this policy, and report efficiently and regularly to the Committee in this regard. 	Municipal Manager
<ul style="list-style-type: none"> • Ensure that there is compliance with the Prevention of Land Invasion Policy 	Director Community Services

6. MONITORING, EVALUATION AND REVIEW

A report detailing the progress with the implementation of Prevention of Land Invasion Policy with specific reference to achievement of this policy has to be compiled every year by the person with the responsibility for implementation and monitoring. The policy must be made available to all consulting parties for perusal and comment and must be circulated to all staff members by means of circulars, notices and notice boards.

SUPPORTING DOCUMENTS

None

9. REFERENCES

None

10. APPENDIX

None

11. ADOPTION AND APPROVAL OF THE POLICY BY COUNCIL

This policy is adopted and approved by the full Ngqushwa Local Municipality Council for implementation


 MUNICIPAL MANAGER

02/08/2022
 DATE


 MAYOR

30/08/2022
 DATE